

The farm machinery and equipment exemption does not extend to propane or other fuel used to power such machinery or equipment. Therefore, sales of propane are subject to Retailers' Occupation Tax and Use Tax. See 86 Ill. Adm. Code 130.305. (This is a GIL).

May 24, 1999

Dear Xxxxx:

This letter is in response to your letter dated April 20, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

Could you please inform me if propane is subject to sales tax in Illinois? COMPANY has several storage/distribution locations in your state, where we keep in storage, and subsequently distribute to local co-ops, liquid anhydrous ammonia fertilizer. The ammonia needs to be hauled at a higher temperature than that at which it is stored, and the propane is used to heat the ammonia. The end use of the ammonia is as a fertilizer on farm crop acreage.

We process invoices for the propane here in CITY, and the question has arisen as to whether the propane is taxable.

Illinois taxes the retail sale and use of tangible personal property under two separate but related statutes. The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. 35 ILCS 120/2 (1996 State Bar Edition). The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. 35 ILCS 105/3 (1996 State Bar Edition).

The Retailers' Occupation Tax does not apply to farm machinery and equipment that is used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or federal agricultural programs. For your information, we have enclosed a copy of 86 Ill. Adm. Code 130.305, which is the Department's regulation concerning Farm Machinery and Equipment. However, the farm machinery and equipment exemption does not extend to propane or other fuel used to power such machinery or equipment. Therefore, sales of propane are subject to Retailers' Occupation Tax and Use Tax.

In addition, the Motor Fuel Tax Law imposes a tax on all motor fuel used in motor vehicles operating on the public highways and recreational type watercraft operating upon the waters of this State. See 35 ILCS 505/2 (1996 State Bar

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Edition) and the enclosed copy of 86 Ill. Adm. Code 500.200. The current rate of tax is 19 cents per gallon of such motor fuel. "Motor fuel" is defined in the Law as "all volatile and inflammable liquids produced, blended, or compounded for the purpose of, or which are suitable or practicable for, operating motor vehicles." 35 ILCS 505/1.1 (1996 State Bar Edition); see also the enclosed copy of 86 Ill. Adm. Code 500.100. Examples of motor fuel referenced in the Law include "all combustible gases which exist in a gaseous state at 60 degrees Fahrenheit and at 14.7 pounds per square inch absolute including, but not limited to, liquefied petroleum gases used for highway purposes." 35 ILCS 505/5 (1996 State Bar Edition).

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Gina Roccaforte
Associate Counsel

GR:msk

Enc.